

Remarks/Arguments

The Examiner issued a Restriction between the claims of Group I directed to an automated material handling and storage system, classified in class 414, subclass 143.2, and the claims of Group II directed to a method for handling cargo containers within a ship, classified in class 414, subclass 803. The Applicants have elected to proceed with the claims of Group I, and this election is made with traverse.

While the Examiner concedes that the inventions set forth in the claims of Groups I and II are related, he is requiring a restriction between the claims of those groups because the method claimed in claims 14-17 of Group II can be practiced by another and materially different apparatus. Specifically, the claimed method set forth in Group II can be used to relocate goods within a manufacturing facility such as a long a production line.

In contrast, the Applicants respectfully assert that the method set forth in the claims of Group II cannot be practiced by another and materially different apparatus because the apparatus set forth in the claims of Group I is not limited to handling cargo containers. The claims of Group I, namely claims 1-13, recite an automated material handling and storage system for storing and shipping containers. Setting aside the preamble of

independent claim 1, since the terms of a preamble are not usually considered claim limitations, there are no structural elements recited in claim 1 or in dependent claims 2-13 that limit the use of the claimed apparatus. For example, the claimed apparatus is not limited to ships or warehouses. Thus, the apparatus of Group I can be used to relocate goods within a manufacturing facility.

Even considering the claims of Group I in light of the preamble of claim I, the claimed apparatus is directed to an automated material handling system for storage containers. As such, there is nothing in the language of the preambles of claim 1 and those claims depending therefrom that would prohibit the use of the claimed apparatus in a manufacturing facility. Since the apparatus set forth in the claims of Group I is not restricted to any particular use, the Applicants respectfully assert that the method claimed in Group II cannot be practiced by another and materially distinct apparatus. Thus, withdrawal of the Restriction requirement is respectfully requested.

In view of the foregoing, reconsideration of the Restriction requirement is respectfully solicited. Should the Examiner have any questions regarding this response, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating

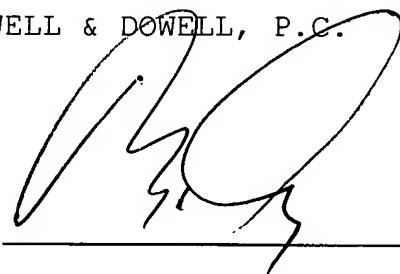
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prosecution of this application.

Respectfully submitted,

DOWELL & DOWELL, P.C.

By

A handwritten signature in black ink, appearing to read "Ralph A. Dowell". It is written in a cursive, fluid style with a prominent 'R' at the beginning.

Ralph A. Dowell, Reg. No. 26,868

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